

AMENDED IN SENATE MAY 9, 2005
AMENDED IN ASSEMBLY MARCH 30, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 43

Introduced by Assembly Member Vargas
(Principal coauthor: Assembly Member Saldana)
(Coauthors: Assembly Members Bermudez, Dymally, and Jones
***Jones, Leno, and Pavley*)**
(Coauthors: Senators ~~Ducheny and Kuehl~~ *Alquist, Ducheny, Kuehl,*
and Romero)

December 6, 2004

An act to amend Section 15342 of the Elections Code relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 43, as amended, Vargas. Write-in candidates.

Existing law requires that a ballot for a qualified write-in candidate be counted if, on specified voting systems, the candidate's name is written on the ballot in the blank space provided and the voting space next to the write-in space, if provided, is marked according to voting instructions. It further requires that, for other voting systems, a ballot for a write-in candidate, if otherwise qualified, be counted if the name is written in the manner described in the voting instructions.

This bill would require a liberal construction of these provisions *in the event of a recount* to ensure that a ballot is counted if the voter's intent can be determined, regardless of whether the voter has literally complied with the voting instructions.

This bill would state that this change is declaratory of existing law.

~~This bill would impose a state-mandated local program by imposing additional duties on local elections officials to ascertain the intent of voters who include write-in candidates on their ballots.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15342 of the Elections Code is
- 2 amended to read:
- 3 15342. Any name written upon a ballot for a qualified
- 4 write-in candidate, including a reasonable facsimile of the
- 5 spelling of a name, shall be counted for the office if it is written
- 6 in the blank space provided and voted as specified below:
- 7 (a) For voting systems in which write-in spaces appear
- 8 directly below the list of candidates for that office and provide a
- 9 voting space, no write-in vote shall be counted unless the voting
- 10 space next to the write-in space is marked or slotted as directed
- 11 in the voting instructions.
- 12 (b) For voting systems in which write-in spaces appear
- 13 separately from the list of candidates for that office and do not
- 14 provide a voting space, the name of the write-in candidate, if
- 15 otherwise qualified, shall be counted if it is written in the manner
- 16 described in the voting instructions.
- 17 (c) The use of pressure-sensitive stickers, glued stamps, or any
- 18 other device not provided for in the voting procedures for the
- 19 voting systems approved by the Secretary of State to indicate the
- 20 name of the write-in candidate are not valid, and a name
- 21 indicated by these methods shall not be counted.
- 22 (d) Neither a vote cast for a candidate whose name appears on
- 23 the ballot nor a vote cast for a write-in candidate shall be counted
- 24 if the voter has indicated, by a combination of marking and

1 writing, a choice of more names than there are candidates to be
2 nominated or elected to the office.

3 (e) All valid write-in votes shall be tabulated and certified to
4 the elections official on forms provided for this purpose, and the
5 write-in votes shall be added to the results of the count of the
6 ballots at the counting place and be included in the official
7 returns for the precinct.

8 (f) In the event of a recount, this section shall be liberally
9 construed to ensure that each ballot is counted if the intent of the
10 voter can be determined, regardless of whether the voter has
11 complied with the voting instructions.

12 ~~SEC. 2. If the Commission on State Mandates determines that~~
13 ~~this act contains costs mandated by the state, reimbursement to~~
14 ~~local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~

17 *SEC. 2. The amendment of Section 15342 of the Elections*
18 *Code made by this act does not constitute a change in, but is*
19 *declaratory of, existing law.*